

North Carolina, and has been since his admission in 1977. Attorney Dorsett is admitted to practice before the United States District Court for the State of North Carolina. Attorney Dorsett is not the subject of any disciplinary proceedings in any Bar to which he is admitted to practice, nor has he ever been disciplined by any court of record or by any Bar Association.

3. Attorney Dorsett requests special leave to this Court to appear solely for purposes of this case, and to be admitted to this Court on that basis *Pro Hac Vice*.

WHEREFORE, Attorney for the Plaintiff, Harry L. Miles, respectfully requests that this Honorable Court grant leave to Attorney Hargrove to appear in this case *Pro Hac Vice*, and for such other and further relief as this Court deems just and proper.

Dated at Northampton, November 10, 2003

Respectfully Submitted,
The Plaintiff,
By his attorney,



Harry L. Miles
GREEN, MILES, LIPTON,
& FITZ-GIBBON
77 Pleasant Street
Post Office Box 210
Northampton, MA 01061-0210
Telephone: 413-586-8218
Facsimile: 413-584-6278
BBO# 209020

The North Carolina State Bar

I, L. Thomas Lunsford, II, Secretary of the North Carolina State Bar, do hereby
certify that James K. Dorsett, III (7695) is a member of the
North Carolina State Bar in good standing as of this date, and that the above named
attorney was duly licensed to practice law in this state on the 21 day of
August, 1977.

_____ has been on inactive membership status with the North Carolina State Bar since _____.

I further certify that as of this date there are no charges pending against the above named attorney, and said attorney has not been disciplined by the North Carolina State Bar.

Given over my hand and the Seal of the North Carolina State Bar, this
29 day of October, 2003.

L. Thomas Jones

Secretary of the North Carolina State Bar

Certificate of Service

I, Harry L. Miles, Esquire, hereby certify that on this date, I served a copy of the foregoing document upon Attorney Susan H. Hargrove and Attorney James J. Dorsett, Jr., of the firm of Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P., 2500 Wachovia Capital Center, P.O. Box 2611, Raleigh, North Carolina 27611-5908, by first class mail, postage prepaid.

Dated:



Harry L. Miles

93 246³

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT

HAMPSHIRE SUPERIOR CRT
HARRY JEKANOWSKI JR
CLERK

Hampshire Division
Docket No.:

2003 NOV 12 A 11:34

November 13, 2003

ALLOWED.

By the Court, Veris, &
Met: Harry L. Miles

MICHAEL BARNETT, Plaintiff,

v.

EAST CAROLINA NEUROLOGY, INC., Defendant.

=====

MOTION FOR ADMISSION PRO HAC VICE

=====

Harry L. Miles, Attorney for the Plaintiff Michael Barnett, hereby moves for leave to appear in this case for Attorney Susan H. Hargrove of Raleigh, North Carolina to appear *Pro Hac Vice* in this case. In support of this Motion, Harry L. Miles states as follows:

1. I am one of the attorneys of record for Plaintiff, Michael Barnett, in this case. I am a partner in the firm of Green, Miles, Lipton, & Fitz-Gibbon, which has its offices at 77 Pleasant Street, Northampton, Massachusetts 01060.
2. The Certificate of Good Standing of Attorney Susan H. Hargrove is attached to this Motion as Exhibit "A". As described in her attached Certificate, Attorney Hargrove is a member of the firm of Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P., 2500 Wachovia Capital Center, P.O. Box 2611, Raleigh, North Carolina. She is an active member in good standing of the Bar of the State of North Carolina, and has been

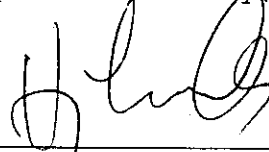
since her admission in 1992. Attorney Hargrove is admitted to practice before the United States District Court for the State of North Carolina. Attorney Hargrove is not the subject of any disciplinary proceedings in any Bar to which she is admitted to practice, nor has she ever been disciplined by any court of record or by any Bar Association.

3. Attorney Hargrove requests special leave to this Court to appear solely for purposes of this case, and to be admitted to this Court on that basis *Pro Hac Vice*.

WHEREFORE, Attorney for the Plaintiff, Harry L. Miles, respectfully requests that this Honorable Court grant leave to Attorney Hargrove to appear in this case *Pro Hac Vice*, and for such other and further relief as this Court deems just and proper.

Dated at Northampton, November 10, 2003

Respectfully Submitted,
The Plaintiff,
By his attorney,



Harry L. Miles
GREEN, MILES, LIPTON,
& FITZ-GIBBON
77 Pleasant Street
Post Office Box 210
Northampton, MA 01061-0210
Telephone: 413-586-8218
Facsimile: 413-584-6278
BBO# 209020

The North Carolina State Bar

I, L. Thomas Lunsford, II, Secretary of the North Carolina State Bar, do hereby
 certify that Susan H. Hargrove (18771) is a member of the
 North Carolina State Bar in good standing as of this date, and that the above named
 attorney was duly licensed to practice law in this state on the 10 day of
 April, 1992.

_____ has been on inactive membership status with the North Carolina State Bar since _____.

I further certify that as of this date there are no charges pending against the above named attorney, and said attorney has not been disciplined by the North Carolina State Bar.

Given over my hand and the Seal of the North Carolina State Bar, this
29 day of October, 2003.


L. Thomas Luna

Secretary of the North Carolina State Bar

Certificate of Service

I, Harry L. Miles, Esquire, hereby certify that on this date, I served a copy of the foregoing document upon Attorney Susan H. Hargrove and Attorney James J. Dorsett, Jr., of the firm of Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P., 2500 Wachovia Capital Center, P.O. Box 2611, Raleigh, North Carolina 27611-5908, by first class mail, postage prepaid.

Dated:



Harry L. Miles

03 246

4



PITT COUNTY, NORTH CAROLINA
OFFICE OF THE SHERIFF
MAC MANNING, SHERIFF

Return of Service

State of North Carolina

Pitt County

I, C.A. Williamson / 7019, being first duly sworn, depose & say that I am a duly appointed, sworn & qualified Deputy Sheriff in and for the County of Pitt, North Carolina.

I am authorized by the laws of the State of North Carolina to serve Civil Process in the County of Pitt, North Carolina.

On the 17 day of December, 20~~00~~⁰³, I made service of the Summons upon the following person(s), Gregg J. Hardy M.D.

by Personal Service

This, the 17 day of December, 20~~00~~⁰³.

Mac E. Manning Jr.,
Sheriff of Pitt County

By: C.A. Williamson / 7019
Deputy Sheriff

Sworn and subscribed to before me,

This the _____ day of _____, 2000

Notary Public

My Commission Expires: _____

(Seal)

COMMONWEALTH OF MASSACHUSETTS
HAMPSHIRE, SS.

77541

Superior Court Department of the
Trial Court of the Commonwealth
Civil Action

7619
6

No. 03246

Michael Barnett , Plaintiff (s)
v.

SUMMONS

East Carolina
Neurology, Inc. , Defendant (s)

2003 DEC 29 A 11:23

HAMPSHIRE SUPERIOR CRT.
HARRY JEKANOWSKI JR.
CLERK

To the above-named Defendant : East Carolina Neurology, Inc.

You are hereby summoned and required to serve upon Harry L. Miles, Esq., plaintiff's attorney, whose address is 77 Pleasant St., Northampton, MA 01060, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Northampton, either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DelVecchio, Esquire at Northampton, the eighth
day of December , in the year of our Lord two thousand
and three

Harry Jekanowski Jr.

CLERK-MAGISTRATE

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption.
If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. Circle type of action involved. Tort - Motor Vehicle Tort - Contract - Equitable relief.

NOTICE TO DEFENDANT - You need not appear personally in court to answer the complaint but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

PROOF OF SERVICE OF PROCESS

I hereby certify and return that on December 17th, 2003
I served a copy of the within summons, together with a copy of the complaint in this action
upon the within-named defendant, in the following manner (See Mass. R. Civ. P. 4 (d) (1-5))

Personal Service to Gregg J Hardy M.D.

Dated: Dec. 17, 2003 . Sheriff MacElmanning Jr. by
N.B. TO PROCESS SERVER:- CA Williamson / 7019

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX ON
THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

Dec 17, 2003.

Commonwealth of Massachusetts
HAMPSHIRE, ss. SUPERIOR COURT
CIVIL ACTION
No. 03246

Michael Barnett

Plff.

v.

East Carolina Neurology, Inc.

Deft.

SUMMONS
(Mass. R. Civ. P. 4)

GREEN, MILES, LIPTON, WHITE & FITZ-GIBBON

ATTORNEYS AT LAW
77 PLEASANT STREET
POST OFFICE BOX 210
NORTHAMPTON, MASSACHUSETTS 01061-0210
(413) 586-8218
FAX (413) 584-6278

JOHN J. GREEN, JR.
HARRY L. MILES
ROGER P. LIPTON
GEOFFREY B. WHITE
JOHN H. FITZ-GIBBON

SUSAN L. MILES
BRIAN L. BLACKBURN
JON HEYMAN

December 8, 2003

Mac Manning
Pitt County Sheriff's Department
P.O. Box 528
Greenville, NC 27835-0528

RE: **Michael Barnett v. East Carolina Neurology, Inc.**
Civil Action No.: 03-03246

Dear Mr. Manning:

Enclosed please find the following in the above-referenced matter:

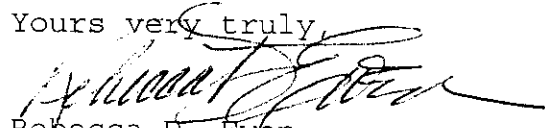
1. Hampshire Superior Court Summons, Complaint and Demand for Jury Trial and Civil Action Cover Sheet;
2. Motion for Admission *Pro Hac Vice* for Attorney Susan H. Hargrove;
3. Motion for Admission *Pro Hac Vice* for Attorney James K. Dorsett;
4. Plaintiff's First Request for Admission Pursuant to Mass. R. Civ. P., 36; and
5. Plaintiff's First Request for Production of Documents.

Please serve the above documents to the person listed below:

Gregg J. Hardy, M.D.
2501 Stantonburg Road
Greenville, NC 27834

Our check in the amount of five (\$5.00) dollars is enclosed for this transaction. Thank you.

Yours very truly,


Rebecca D. Ewen
Assistant to Harry L. Miles, Esq.

Enclosures

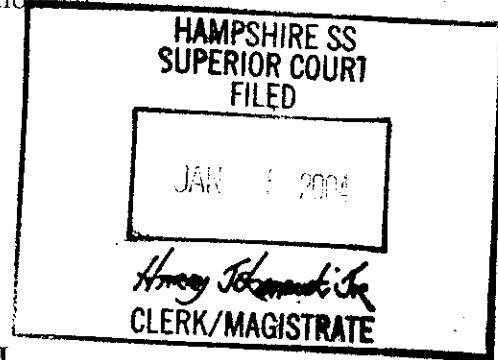
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No.

MICHAEL J. BARNETT, M.D.
Plaintiff

v.

EAST CAROLINA NEUROLOGY, INC.,
Defendant



NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, the Defendant East Carolina Neurology, Inc. ("ECN") hereby removes Hampshire County Superior Court Civil Action No. HSCV2003-0246 to this Court, in that the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and is between citizens of different states. In support of this Notice, ECN states as follows:

PROCEEDINGS IN THE SUPERIOR COURT

1. Plaintiff Michael J. Barnett, M.D. ("Dr. Barnett") filed Superior Court Civil Action No. HSCV2003-00246 ("Superior Court Action") against ECN in the Superior Court of Hampshire County, Massachusetts on November 12, 2003. The complaint seeks damages on claims for breach of contract, breach of duty of good faith and fair dealing, fraudulent inducement, and unfair and deceptive trade practices in North Carolina and in Massachusetts. A copy of the Complaint is attached as Exhibit 1.

2. A copy of the Complaint, a Civil Cover Sheet, Plaintiff's First Request for Admissions, and Plaintiff's First Request for Production of Documents were served on December 17, 2003. Plaintiff also filed in the state court action Motions for Pro Hac Vice Admission of

James K. Dorsett and Susan H. Hargrove. Copies of the cover sheet, discovery, and motion are attached as Exhibit 2.

3. This Honorable Court is the United States District Court for the judicial district and division embracing the place where the action was commenced.

4. Upon information and belief, no other parties have been joined and served as Defendants in the action.

SUBJECT MATTER JURISDICTION

5. This action is within the jurisdiction of this Court pursuant to 28 U.S.C. § 1332(a)(1) because it is an action between citizens of different states and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

6. According to the Complaint, Dr. Barnett was a citizen of the Commonwealth of Massachusetts and, upon information and belief, remains a citizen of Massachusetts.

7. ECN was and is incorporated in North Carolina with a principal place of business in Greenville, North Carolina. Therefore, Defendant is a citizen of North Carolina.

AMOUNT IN CONTROVERSY

8. Dr. Barnett seeks damages for breach, after three months, of a two-year contract with ECN. Dr. Barnett also seeks damages for breach of the duty of good faith and fair dealing, fraudulent inducement, and unfair and deceptive trade practices in North Carolina and in Massachusetts. The Civil Action Cover Sheet states that Dr. Barnett expected his compensation under the contract would have exceeded \$250,000.

CONCLUSION

9. This is a civil action over which the Court has original jurisdiction under 28 U.S.C. § 1332 in that it is a controversy between citizens of different states involving a sum or value

exceeding \$75,000, exclusive of interest and costs. This action therefore may be removed to this Court from the Superior Court of Hampshire County pursuant to 28 U.S.C. § 1441, and ECN respectfully requests such removal.

10. In filing this Notice of Removal, ECN does not waive any defenses that may be available to it.

11. Prompt written notice of the filing of this Notice of Removal will be given to Dr. Barnett, with a copy for the Superior Court, as required by 28 U.S.C. § 1446(d).

12. Pursuant to 28 U.S.C. § 1446(a) & (b), this Notice of Removal is signed in accordance with Fed. R. Civ. P. 11 and is filed with this Court within 30 days after service upon ECN of the Summons and Complaint in the above-captioned action.

Dated: January 5, 2004

Respectfully submitted,
EAST CAROLINA NEUROLOGY, INC.
By Its Attorneys,



Francis D. Dibble, Jr.

BBO # 123220

Vanessa L. Smith

BBO # 649258

Bulkley, Richardson and Gelinas, LLP

1500 Main Street, Suite 2700

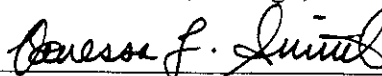
Springfield, MA 01115

Tel: (413) 272-6283

Fax: (413) 272-6804

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of January, 2004, I caused a true and correct copy of the foregoing **Notice of Removal** to be served by United States mail, first class postage prepaid, upon: Harry L. Miles, Esq., 77 Pleasant Street, P.O. Box 210, Northampton, MA 01061 and James K. Dorsett, III, Esq., Susan H. Hargrove, Esq., P.O. Box 2611, Raleigh, NC 27602-2611.



Vanessa L. Smith, Attorney for Defendant

03 246

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No.

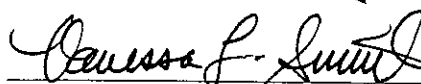
MICHAEL J. BARNETT, M.D.)
Plaintiff,)
v.)
EAST CAROLINA NEUROLOGY, INC.)
Defendant)

NOTICE OF FILING OF NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446(d), Plaintiff is hereby notified, through service of this Notice of Removal upon its counsel of record, that a Notice of Removal of Hampshire County Massachusetts Civil Action No. HSCV2003-00246 to the United States District Court for the District of Massachusetts, Western Division was duly filed in the Office of the Clerk of the United States District Court for the District of Massachusetts, Western Division on January 5, 2004. A copy of the Notice of Removal is annexed hereto, together with copies of the pertinent papers served in the Superior Court.

A copy of this Notice is filed in the Superior Court pursuant to 28 U.S.C. §1446(d).

EAST CAROLINA NEUROLOGY, INC.,
By Its Attorneys,



Francis D. Dibble, Jr.

BBO No. 123220

Vanessa L. Smith

BBO No. 649258

Bulkley, Richardson and Gelinas, LLP

1500 Main Street, Suite 2700

Springfield, MA 01115

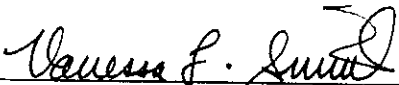
Tel: (413) 781-2820

Fax: (413) 272-6804

Dated: January 5, 2004

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of January, 2004, I caused a true and correct copy of the foregoing **Notice of Filing of Notice of Removal** to be served by United States mail, first class postage prepaid, upon: Harry L. Miles, Esq., 77 Pleasant Street, P.O. Box 210, Northampton, MA 01061 and James K. Dorsett, III, Esq., Susan H. Hargrove, Esq., P.O. Box 2611, Raleigh, NC 27602-2611.



Vanessa L. Smith, Attorney for Defendant

04-30001-MAP

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No.

MICHAEL J. BARNETT, M.D.
Plaintiff,

v.

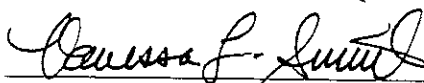
EAST CAROLINA NEUROLOGY, INC.
Defendant

NOTICE OF FILING OF NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446(d), Plaintiff is hereby notified, through service of this Notice upon its counsel of record, that a Notice of Removal of Hampshire County Massachusetts Civil Action No. HSCV2003-00246 to the United States District Court for the District of Massachusetts, Western Division was duly filed in the Office of the Clerk of the United States District Court for the District of Massachusetts, Western Division on January 5, 2004. A copy of the Notice of Removal is annexed hereto, together with copies of the pertinent papers served in the Superior Court.

A copy of this Notice is filed in the Superior Court pursuant to 28 U.S.C. §1446(d).

EAST CAROLINA NEUROLOGY, INC.,
By Its Attorneys,



Francis D. Dibble, Jr.

BBO No. 123220

Vanessa L. Smith

BBO No. 649258

Bulkley, Richardson and Gelinas, LLP

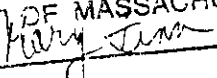
1500 Main Street, Suite 2700

Springfield, MA 01115

Tel: (413) 781-2820

Fax: (413) 272-6804

1/5/04
I HEREBY ATTEST AND CERTIFY ON
THAT THE FOREGOING DOCUMENT IS A FULL, TRUE
AND CORRECT COPY OF THE ORIGINAL ON FILE
IN MY OFFICE AND IN MY LEGAL CUSTODY.

CLERK, U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS


Dated: January 5, 2004

